

**BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY**

IN THE MATTER OF:)	Case Nos.: DO-15-0146A, DO-16-0045A,
)	and DO-16-0055A
VICTOR KISSIL, D.O.)	
Holder of License No. 3735)	FIRST AMENDMENT TO
)	CONSENT AGREEMENT AND ORDER
)	FOR PROBATION
For the practice of osteopathic medicine in the)	
State of Arizona)	
)	
)	

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Board of Osteopathic Examiners in Medicine and Surgery (“Board”) and Victor Kissil, D.O. (“Respondent”), the parties agree to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order (“Consent Agreement”). Respondent acknowledges that he has the right to consult with legal counsel regarding this matter and has done so or chooses not to do so.

2. By entering into this First Amendment to Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this First Amendment to Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This First Amendment to Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. Respondent admits to the findings of fact and conclusions of law contained in the First Amendment to Consent Agreement and Order.

1 5. This First Amendment to Consent Agreement, or any part thereof, may be
2 considered in any future disciplinary action against Respondent.


3 6. Upon signing this agreement, and returning this document (or a copy thereof) to
4 the Board's Executive Director, Respondent may not revoke the acceptance of the First
5 Amendment to Consent Agreement. Respondent may not make any modifications to the
6 document. Any modifications to this original document are ineffective and void unless mutually
7 approved by the parties.

8 7. This First Amendment to Consent Agreement, once approved and signed, is a
9 public record that will be publicly disseminated as a formal action of the Board and will be
10 reported to the National Practitioner Data Bank and to the Board's website.

11 8. If any part of the First Amendment to Consent Agreement is later declared void or
12 otherwise unenforceable, the remainder of the First Amendment to Consent Agreement in its
13 entirety shall remain in force and effect.

14 9. If the Board does not adopt this First Amendment to Consent Agreement, (1)
15 Respondent will not assert as a defense that the Board's consideration of the First Amendment to
16 Consent Agreement constitutes bias, prejudice, prejudgment or other similar defense; and (2) the
17 Board will not consider content of this First Amendment to Consent Agreement as an admission
18 by Respondent.

19 REVIEWED AND ACCEPTED THIS 28TH DAY OF JULY, 2017.

20
21 
22 _____
Victor Kissil, D.O.

23
24 **JURISDICTIONAL STATEMENT**

25 1. The Board is empowered, pursuant to A.R.S. § 32-1800, et seq. to regulate the
26 licensing and practice of osteopathic medicine in the State of Arizona.

2. Respondent holds license No. 3735 issued by the Board to practice as an osteopathic physician.

FINDINGS OF FACT

1. The Board initiated case DO-15-0146A after receiving a notice of a malpractice settlement.

2. A review of the case indicated that the medical records were handwritten and difficult to decipher. Respondent admitted he does not use an EMR system.

3. There was also a possible failure to recognize intrauterine growth retardation in a fetus and to obtain appropriate lab work ups.

4. The Board initiated case DO-16-0045A after receiving a complaint from patient, L.V., who alleged Respondent had inappropriately hugged her at the end of her examination. Respondent reported the hug took place in the hall as she was leaving.

5. The Board initiated case DO-16-0055A after receiving a complaint from patient, D.B. She alleged that Respondent did not consider her time constraints during an office visit and he did recognize social cues. He attempted to hug her after her visit which she reportedly did not welcome.

6. On October 8, 2016, the Board held Investigative Hearings on all three matters. Respondent appeared and was not represented.

7. Respondent entered into a Consent Agreement with Board on January 6, 2017. The Consent Agreement failed to include all of the Board's requirements. This First Amendment is issued to incorporate those items that were not included in the original Consent Agreement.

CONCLUSIONS OF LAW

1. Pursuant to A.R.S. § 32-1800, et seq. the Board has subject matter and personal jurisdiction in this matter.

2. The conduct and circumstances described in paragraphs 1 through 7 above, constitute unprofessional conduct as defined in the following paragraphs of A.R.S. § 32-1854:

(6) Engaging in the practice of medicine in a manner that harms or may harm a patient or that the Board determines falls below the community standard.

(21) Failing or refusing to establish and maintain adequate records on a patient as follows:

(a) If the patient is an adult, for at least six years after the last date the licensee provided the patient with medical or health care services.

(38) Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.

ORDER

Pursuant to the authority vested in the Board, **IT IS HEREBY ORDERED** that Victor Kissil, D.O, holder of osteopathic medical License number 3735, voluntarily agrees to complete all of the terms in the original Consent Agreement and Order for Probation, issued on January 6, 2017 as well as the following, effective on the date this First Amendment is signed by the Board's Executive Director:

1. Respondent shall have a policy of no hugging of patients.

2. Respondent shall continue to have a chaperone present when he is with female patients.

3. Respondent shall order ultrasounds at appropriate intervals.

4. Respondent's failure to comply with the requirements of this Order shall constitute an allegation of unprofessional conduct as defined at A.R.S. § 32-1854(25); proven violations may be grounds for further disciplinary action (e.g., suspension or revocation of license).

5. If any part of the Order is later declared void or otherwise unenforceable, the remainder of the Order in its entirety shall remain in force and effective




ISSUED THIS 28th DAY OF July, 2017.
STATE OF ARIZONA
BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By:


Jenna Jones, Executive Director

8 Original filed this 28th day of July, 2017 with the:

9 Arizona Board of Osteopathic Examiners
10 In Medicine and Surgery
11 9535 East Doubletree Ranch Road
12 Scottsdale AZ 85258-5539

13 Copy of the foregoing sent via ~~mail and electronic mail~~ ^{hand delivered} this 28th day of July, 2017 to: 

14 Victor Kissil, D.O.
15 Address of Record
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

IN THE MATTER OF:

) **Case Nos.: DO-15-0146A, DO-16-0045A,**
) **and DO-16-0055A**

VICTOR KISSIL, D.O.

Holder of License No. 3735

) **CONSENT AGREEMENT AND ORDER**
) **FOR PROBATION**

For the practice of osteopathic medicine in the
State of Arizona

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Board of Osteopathic Examiners in Medicine and Surgery (“Board”) and Victor Kissil, D.O. (“Respondent”), the parties agree to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order (“Consent Agreement”). Respondent acknowledges that he has the right to consult with legal counsel regarding this matter and has done so or chooses not to do so.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. Respondent admits to the findings of fact and conclusions of law contained in the Consent Agreement and Order.

5. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

6. Upon signing this agreement, and returning this document (or a copy thereof) to the Board's Executive Director, Respondent may not revoke the acceptance of the Consent Agreement. Respondent may not make any modifications to the document. Any modifications to this original document are ineffective and void unless mutually approved by the parties.

7. This Consent Agreement, once approved and signed, is a public record that will be publicly disseminated as a formal action of the Board and will be reported to the National Practitioner Data Bank and to the Board's website.

8. If any part of the Consent Agreement is later declared void or otherwise unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force and effect.

9. If the Board does not adopt this Consent Agreement, (1) Respondent shall not assert as a defense that the Board's consideration of the Consent Agreement constitutes bias, prejudice, prejudgment or other similar defense; and (2) the Board shall not consider content of this Consent Agreement as an admission by Respondent.

REVIEWED AND ACCEPTED THIS 6 DAY OF JAN, ²⁰¹⁷~~2016~~



Victor Kissil, D.O.

JURISDICTIONAL STATEMENT

1. The Board is empowered, pursuant to A.R.S. § 32-1800, *et seq.* to regulate the licensing and practice of osteopathic medicine in the State of Arizona.

2. Respondent holds license No. 3735 issued by the Board to practice as an osteopathic physician.

1 FINDINGS OF FACT

2 1. The Board initiated case DO-15-0146A after receiving a notice of a malpractice
3 settlement. On October 8, 2016, the Board held an Investigative Hearings on all three matters.
4 Respondent appeared personally and on his own behalf.

5 2. A review of the case indicated that the medical records were handwritten and
6 difficult to decipher. Respondent admitted he does not use an EMR system.

7 3. There was failure to recognize intrauterine growth retardation in a fetus and to
8 obtain appropriate lab work ups.

9 4. The Board initiated case DO-16-0045A after receiving a complaint from patient,
10 L.V., who alleged Respondent had inappropriately hugged her at the end of her examination.
11 Respondent reported that he hugged the patient in the hall as she was leaving.

12 5. The Board initiated case DO-16-0055A after receiving a complaint from patient,
13 D.B. She alleged that Respondent did not consider her time constraints during an office visit and
14 he did recognize social cues. Additionally, Respondent attempted to hug her after her visit,
15 which she did not welcome.
16

17 CONCLUSIONS OF LAW

18 1. Pursuant to A.R.S. § 32-1800, et seq. the Board has subject matter and personal
19 jurisdiction in this matter.

20 2. The conduct and circumstances as described in the paragraphs above, constitute
21 unprofessional conduct as defined in the following paragraphs of A.R.S. § 32-1854:

22 (6) Engaging in the practice of medicine in a manner that harms or may harm
23 a patient or that the Board determines falls below the community standard.

24 (38) Any conduct or practice that endangers a patient's or the public's health or
25 may reasonably be expected to do so.

26 ORDER

Pursuant to the authority vested in the Board, **IT IS HEREBY ORDERED** that Victor Kissil, D.O, holder of osteopathic medical License number 3735, shall complete the following terms within one year (or twelve months) from the effective date of this Consent Agreement and Order for Probation:

1. Respondent shall obtain a total of ten (10) in-person Continuing Medical Education (CME) credit hours in the areas of boundaries and medical record keeping. In addition, he shall obtain ten (10) CME credit hours in the area of intrauterine growth retardation. The CME hours must be approved in advance by the Board's Executive Director, and shall be in addition to the hours required for biennial renewal of his osteopathic medical license.

2. During the first one-hundred and eighty (180) days of the effective date of this Consent Agreement, Respondent shall begin the institution of an electronic medical records system. The system shall be fully implemented within twelve (12) months of the effective date of this Consent Agreement.

3. Respondent shall undergo a Cognitive Behavioral Therapy evaluation within forty-five (45) days of the effective date of this Agreement and complete all shall comply with all recommended treatment courses as a result of the evaluation. The therapist must be a licensed Arizona healthcare professional that is either a psychologist or master's level provider, approved in advance by the Board's Executive Director. Respondent shall comply with recommendations made by the therapist and complete suggested treatment. Respondent shall be responsible for therapist providing a copy of the initial evaluation within thirty (30) days of the evaluation to the Board. If the evaluator recommends that the Respondent undergo periodic Cognitive Behavior Therapy, the Respondent shall obtain a therapist, preapproved by the Board's Executive Director, and the therapist shall provide and quarterly reports detailing Respondent's progress, prognosis and treatment plan to the Board on or before the fifteen (15th) of the month.

1 4. All costs of compliance with this Order are to be borne by Respondent.

2 5. Respondent shall obey all federal, state and local laws, and all rules governing the
3 practice of medicine in the State of Arizona.

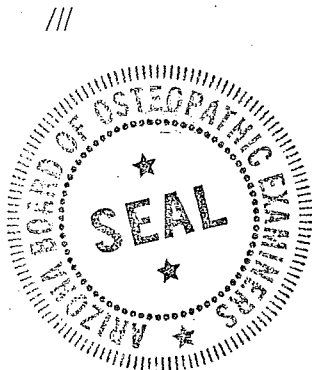
4 6. Respondent shall appear in person before the Board or Board staff for interviews
5 upon request, upon reasonable notice.

6 7. Respondent shall notify the Board within ten (10) days, in writing, of any change
7 in office or home addresses and telephone numbers.

8 8. In the event that Respondent ceases to practice clinical medicine in the State of
9 Arizona, for any reason, Respondent shall notify the Board that he has ceased practicing in
10 Arizona, in writing, within 10 days of ceasing to practice. The Board may stay the terms of this
11 Order until such time as the Respondent resumes the practice of medicine in Arizona, or may
12 take other action to resolve the findings of fact and conclusions of law contained in this Order.

13 9. Respondent's failure to comply with the requirements of this Order shall
14 constitute an allegation of unprofessional conduct as defined at A.R.S. § 32-1854(25); proven
15 violations may be grounds for further disciplinary action (e.g., suspension or revocation of
16 license).

17 10. If any part of the Order is later declared void or otherwise unenforceable, the
18 remainder of the Order in its entirety shall remain in force and effective.
19



21 ISSUED THIS 6TH DAY OF January, 2017
22 STATE OF ARIZONA
23 BOARD OF OSTEOPATHIC EXAMINERS
24 IN MEDICINE AND SURGERY

25 By: Jenna Jones
26 Jenna Jones, Executive Director
27

Original filed this th 6 day of January, ²⁰¹⁷ ~~2016~~ with the:

Arizona Board of Osteopathic Examiners
In Medicine and Surgery
9535 East Doubletree Ranch Road
Scottsdale AZ 85258-5539

Copy of the foregoing sent via certified mail, return receipt requested this
6th day of January, ²⁰¹⁷ ~~2016~~ to:

Victor Kissil, D.O.
Address of Record

Copy of the foregoing sent via regular mail
this 6th day of January, ²⁰¹⁷ ~~2016~~ to:

Jeanne Galvin, AAG
Office of the Attorney General CIV/LES
1275 West Washington
Phoenix AZ 85007